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1970

# c 375 Public Commercial Vehicles Act

Ontario

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## CHAPTER 375

**The Public Commercial Vehicles Act****1. In this Act,**Interpre-  
tation

- (a) "Board" means the Ontario Highway Transport Board;
- (b) "compensation" includes any rate, remuneration, reimbursement or reward of any kind paid, payable or promised, or received or demanded, directly or indirectly;
- (c) "Department" means the Department of Transport;
- (d) "dual-purpose vehicle" means a motor vehicle, other than one commonly known as a passenger car, designed by the manufacturer for the transportation of persons and goods;
- (e) "freight forwarder" means any person not the holder of an operating licence who transports or offers to transport or provides the transportation or offers to provide the transportation of goods on a highway for compensation and who,
  - (i) assembles and consolidates or provides for assembling and consolidating shipments of such goods, and performs or provides for distributing operations with respect to such consolidated shipments, and
  - (ii) assumes responsibility for the transportation of such property from point of receipt to point of destination, and
  - (iii) utilizes a commercial motor vehicle or trailer as defined in *The Highway Traffic Act* or a dual-purpose vehicle for the whole or any part of the transportation of such goods beyond an urban zone;
- (f) "goods" includes all classes of materials, wares and merchandise, live stock and milk;
- (g) "highway" means a highway as defined in *The Highway Traffic Act*;
- (h) "Minister" means the Minister of Transport;
- (i) "owner" means a person registered under *The Highway Traffic Act* as the owner of a motor vehicle;

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- (j) "operating licence" means a public commercial vehicle operating licence issued under this Act;
- (k) "public commercial vehicle" means a commercial motor vehicle or trailer as defined in *The Highway Traffic Act* or a dual-purpose vehicle operated on a highway by, for, or on behalf of any person for the transportation for compensation of goods of any other person and not confined in its operation to one urban zone, but does not include a commercial motor vehicle or trailer used only for the transportation from a farm or forest of goods other than live stock and milk that are the product of such farm or forest;
- (l) "regulations" means the regulations made under this Act;
- (m) "tank truck vehicle" means a commercial motor vehicle, trailer or semi-trailer used for or capable of being used for the transportation of products in bulk and which contains or to which there is attached or upon which there has been placed either permanently or otherwise a closed tank or container having a capacity of 500 gallons or more;
- (n) "toll" means any fee or rate charged, levied or collected for the transportation of goods or for use of a public commercial vehicle;
- (o) "transportation" with respect to goods means the transportation, carriage, shipment, care, handling, storage or delivery thereof;
- (p) "urban zone" means an area consisting of one urban municipality and lands adjacent thereto and within a distance of three miles therefrom, but does not include any part of any other urban municipality;
- (q) "vehicle licence" means a public commercial vehicle licence issued under this Act. R.S.O. 1960, c. 319, s. 1; 1961-62, c. 114, s. 1; 1968, c. 105, s. 1.

Operating  
licence  
required

**2.—(1)** No person shall operate a public commercial vehicle,

- (a) except under an operating licence; or
- (b) in contravention of the terms and conditions of the operating licence. R.S.O. 1960, c. 319, s. 2 (1).

Certain  
leases  
prohibited

**(2)** No person shall enter into a lease of a commercial motor vehicle or trailer as defined in *The Highway Traffic Act* or a dual-purpose vehicle where,

- (a) the lessor of such vehicle engages or pays directly or indirectly the driver of such vehicle; or
- (b) the lessor in any manner whatsoever exercises any

control over the driver in the course of his employment as a driver of such vehicle; or

(c) the lessee of such vehicle does not acquire or exercise absolute possession of and control over the operation of the vehicle under the lease; or

(d) the lessor of such vehicle in any manner whatsoever assumes any responsibility for any goods transported by the vehicle. 1968, c. 105, s. 2.

(3) No person shall operate a public commercial vehicle unless the vehicle is licensed as a public commercial vehicle under this Act. Vehicle licence required

(4) No person shall solicit by means of advertising, or otherwise undertake to arrange the transportation of goods by means of a vehicle operated on a highway by, for or on behalf of any person who receives compensation, either directly or indirectly, for such transportation, unless the person by, for or on behalf of whom the vehicle is operated is licensed under this Act to perform the transportation that is the object of such advertising or undertaking. Advertising by unlicensed persons R.S.O. 1960, c. 319, s. 2 (3, 4).

**3.**—(1) In this section, "lease" includes a transfer of the permit issued for a commercial motor vehicle under *The Highway Traffic Act* where the permit is transferred by the registered owner of the vehicle to a shipper or consignor of goods that are to be transported on the vehicle, subject to an agreement to retransfer the permit to the owner. Interpretation R.S.O. 1970, c. 202 1961-62, c. 114, s. 3, *part*.

(2) Where goods are transported on a highway by a commercial motor vehicle or trailer as defined in *The Highway Traffic Act* or a dual-purpose vehicle that is operated under a lease to the shipper or consignor of such goods, the Minister may direct the Board to conduct a hearing of the facts relating to the transportation for the purpose of determining whether or not the vehicle transporting the goods is a public commercial vehicle, and sections 10 and 11 of *The Ontario Highway Transport Board Act* apply in respect of such hearing. Hearing re transportation of goods by a vehicle under a lease R.S.O. 1970, cc. 202, 316 1968, c. 105, s. 3 (1).

(3) Where the Board conducts a hearing under subsection 2, the Board shall furnish to the Minister a copy of its decision. Copy of decision to Minister 1961-62, c. 114, s. 3, *part*.

(4) Where, under subsection 2, the Board determines that a vehicle is a public commercial vehicle, the Minister may, under subsection 4 of section 6 of *The Highway Traffic Act*, cancel the permit of any vehicle operated under the lease. Where vehicle deemed a commercial motor vehicle 1961-62, c. 114, s. 3, *part*; 1968, c. 105, s. 3 (2).



## Agents

**4.**—(1) No person other than a duly authorized agent of an owner of a public commercial vehicle shall carry on the business of an agent for the transportation of goods upon the highways.

## Agency authority

(2) A duly authorized agent of an owner of a public commercial vehicle shall be appointed in writing and such appointment shall be signed by the owner and shall at all times be kept posted up and displayed in a conspicuous place on the premises at which the agent conducts the agency business. R.S.O. 1960, c. 319, s. 3.

## Approval of Board

**5.**—(1) No operating licence shall be issued without the approval of the Board being first obtained as evidenced by the Board's certificate of public necessity and convenience furnished to the Minister and then only in accordance with the certificate. R.S.O. 1960, c. 319, s. 4 (1).

## Application to dump truck operation

(2) Subsection 1 does not apply to the issue of an operating licence for the transportation, except by a tank truck vehicle, of,

- (a) sand, gravel, earth, crushed or uncut rock and stone, slag and rubble; or
- (b) salt, calcium chloride, a mixture of sand and salt, and asphalt mixes directly to highway construction or maintenance sites or to stock piles for further use on highway construction or maintenance sites. 1968, c. 105, s. 4.

## Renewal of licence

(3) The approval of the Board to a renewal of a licence is not required unless the Minister refers the application for renewal to the Board. R.S.O. 1960, c. 319, s. 4 (2).

## Alteration of licence

(4) The Minister may at any time refer an operating licence to the Board with a recommendation that the terms and conditions of the licence be reviewed.

## Powers of Board

(5) On any application or reference to the Board, the Board has and may exercise all powers necessary for the purposes of this Act, and may give or refuse such certificate and make such order as it considers just. R.S.O. 1960, c. 319, s. 4 (4, 5).

## Approval and fee on transfer of licence

(6) No operating licence shall be transferred without the written approval of the Board and payment of the fee prescribed under the regulations, and the Board is not bound to grant approval under any circumstances. 1961-62, c. 114, s. 5.

## Issue or transfer of shares of corporation

**6.** The Board may in its discretion require the directors of a corporation that is the holder of an operating licence to present to the Board for approval any issue or transfer of shares of its capital stock, and where, in the opinion of the Board, a substantial interest is issued or transferred, such issue or transfer shall be deemed to constitute a transfer of all operating licences held by

such corporation, and the corporation shall forthwith pay the fees prescribed by the regulations for the transfer of operating licences. 1961-62, c. 114, s. 6.

**7.** Operating and vehicle licences shall be issued by the Minister and are subject to the regulations and the terms and conditions of the licence. R.S.O. 1960, c. 319, s. 6.

Issue of  
licences

**8.** An operating licence may confer special or limited rights with respect to the operation of public commercial vehicles and with respect to any highway or highways or portions thereof described in the licence. R.S.O. 1960, c. 319, s. 7.

Rights  
limited  
by licence

**9.**—(1) A vehicle licence may fix the tonnage that the vehicle may carry, and no vehicle shall at any time carry more tonnage than is fixed by the licence.

Tonnage

(2) Every public commercial vehicle shall, while operated on a highway, have attached thereto and exposed in a conspicuous position a licence plate issued by the Minister showing in plain figures the number of the vehicle licence issued for the vehicle for the current year. R.S.O. 1960, c. 319, s. 8.

Licence  
plate to be  
plainly  
exposed

**10.** The Minister may at any time cancel or suspend any licence by reason of a breach of this Act or *The Highway Traffic Act* or of the regulations hereunder or thereunder, or for any reason set out in the regulations. R.S.O. 1960, c. 319, s. 9.

Cancellation  
and  
suspension  
of licences  
R.S.O. 1970,  
c. 202

**11.** No operating licence shall be transferred except with the written approval of the Minister. R.S.O. 1960, c. 319, s. 10.

Transfer of  
operating  
licences

**12.**—(1) No person shall operate as a freight forwarder unless he is the holder of a freight-forwarder's licence.

Freight-  
forwarder's  
licence

(2) Freight-forwarders' licences shall be issued by the Minister and are subject to the regulations and the terms and conditions of the licence. 1968, c. 105, s. 5.

Issue

**13.** Every person licensed under this Act shall provide or effect and carry such insurance or bond as is prescribed by the regulations. R.S.O. 1960, c. 319, s. 11.

Insurance

**14.**—(1) Every insurer who has issued a policy of insurance in accordance with section 13 shall issue a certificate thereof which shall be filed with the Minister.

Certificate  
of insurance

(2) Such certificate shall be deemed to be a conclusive admission by the insurer that the policy has been issued and is in accordance with the terms of the certificate.

Effect of  
certificate

Notice of  
cancellation  
or expiry of  
insurance

(3) Every insurer shall notify the Minister in writing of the cancellation or expiry of any policy for which a certificate has been issued, at least thirty days before the effective date of the cancellation or expiry, and in the absence of such notice of cancellation or expiry the policy remains in full force and effect. R.S.O. 1960, c. 319, s. 12.

Cancellation  
of expiry  
of bond

**15.** A bond issued in accordance with section 13 shall not be cancelled or expire except after thirty days written notice to the Minister, but not after the happening of an injury or damage secured by the bond as to such accident, injury or damage, and the bond shall be filed with the Minister. R.S.O. 1960, c. 319, s. 13.

Offences

**16.** Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$200. R.S.O. 1960, c. 319, s. 14 (1); 1968, c. 105, s. 6.

Consent to  
prosecutions

**17.** No prosecution shall be instituted under this Act without the consent of a member of the Ontario Provincial Police Force or of an officer of the Department designated by the Minister to assist in the enforcement of this Act. R.S.O. 1960, c. 319, s. 15.

Regulations

**18.** The Lieutenant Governor in Council may make regulations,

- (a) governing the issue, renewal, transfer, suspension and cancellation of licences and classes of licences;
- (b) prescribing fees and the basis for computing fees, and respecting payment thereof;
- (c) exempting any person or the holder of any class or type of operating licence from the payment of fees respecting the transfer of an operating licence;
- (d) prescribing terms and conditions to which licences shall be subject;
- (e) requiring any person to whom an operating licence is issued to produce a certificate of mechanical fitness respecting any or all vehicles operated under such licence, and prescribing the form and content of a certificate of mechanical fitness;
- (f) fixing the form, amount, nature, class, terms and conditions of insurance or bond that shall be provided and carried by persons licensed under this Act;
- (g) prescribing the terms and conditions of cancellation, expiry, renewal, extension and notice of cancellation respecting such insurance or bonds;



- (h) governing the filing of bonds and certificates of insurance;
  - (i) respecting the publication, filing and posting of tariffs of tolls, and the payment of tolls;
  - (j) providing for the examination of public commercial vehicles, their contents and equipment by officers of the Department and members of the Ontario Provincial Police Force;
  - (k) prescribing, regulating and limiting the hours of labour of drivers of public commercial vehicles;
  - (l) prescribing the qualifications of drivers of public commercial vehicles;
  - (m) prescribing equipment to be carried by public commercial vehicles and the condition and location in which the equipment shall be kept;
  - (n) prescribing the method of bookkeeping or accounting to be used and the returns or statements to be filed, and providing for the examination by officers of the Department of all books, records and documents;
  - (o) prescribing the method of handling cash on delivery shipments and the collection and remittance of cash on delivery funds;
  - (p) prescribing the form of or conditions in the bill of lading to be used;
  - (q) providing for the delegation to an officer of the Department of such of the powers and duties of the Minister as may be considered necessary;
  - (r) providing for the temporary exemption from any of the provisions of this Act or the regulations of such public commercial vehicles carrying goods into, out of, or through Ontario or such persons operating such vehicles as he may designate upon such terms, limitations and conditions as he may prescribe;
  - (s) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1960, c. 319, s. 16; 1961-62, c. 114, s. 7; 1968, c. 105, s. 7.
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